

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 9050**

October 28, 2021

**SUMMARY OF BILL:** Establishes the following as unlawful discriminatory practices under the *Tennessee Human Rights Act*, when based on a person's COVID-19 vaccination status: a person refusing an individual a local or state service, good, facility, advantage, license, healthcare access, or employment opportunity; an employer refusing employment, barring employment, or discriminating against a person in compensation or condition of employment; a place of public accommodation excluding, segregating, refusing to serve, or discriminating against a person.

Establishes that these prohibitions do not apply to vaccination requirements for a school, nursery, kindergarten, preschool, or child care facility. Excludes a healthcare institution, which does not include homes for the aged or mental health facilities, from unlawful discrimination violations if the institution asks employees to volunteer vaccination status to determine if the facility should implement reasonable accommodation to protect the safety and health of employees, patients, and visitors, and implements such measures. Exempts healthcare institutions from compliance with these provisions if compliance would violate regulations issued by the federal Centers for Medicare and Medicaid Services or the federal Centers for Disease Control and Prevention.

Prohibits an individual from being required to receive a vaccine that is allowed due to an emergency use authorization or is undergoing trials. Requires the Department of Health (DOH) and county health departments to display the established unlawful discriminatory practices on their websites.

Prohibits any public funds of the state or political subdivision, or any personnel or property of the state to be allocated towards the implementation of a federal law, order, rule, or regulation that the Attorney General and Reporter (AG) deems a discriminatory practice, violates the tenth amendment to the Constitution of the United States, or would harm the economy of this state. Requires the AG to review federal laws, orders, rules, and regulations at the request of a member of the General Assembly.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$23,700/FY21-22**

**/Tennessee Human Rights Commission**

**\$47,400/FY22-23 and Subsequent Years**

**/Tennessee Human Rights Commission**

**Other Fiscal Impact – Federal funding may be jeopardized if state or local agencies are prohibited from complying with federal guidance that is found by the AG to be a discriminatory practice, unconstitutional, or harmful to the economy. Due to multiple unknown factors, the timing and amount of any such jeopardy, or the specific funds that may be jeopardized cannot be determined with reasonable certainty.**

Assumptions:

- The addition of discriminatory practices under the *Human Rights Act* is estimated to significantly increase the number of phone calls, online complaint submittals, and case processing on behalf of the Tennessee Human Rights Commission (THRC).
- The THRC will require an additional Intake Specialist, or Administrative Services Assistant 3, for the volume of contact estimated to generate from the proposed legislation.
- A recurring increase in state expenditures to the THRC of \$47,424 (\$34,884 salary + \$12,540 benefits).
- The proposed legislation is effective upon becoming a law. It is assumed the THRC would fill the position on January 1, 2022. The FY21-22 increase in expenditures will be half of future fiscal years, or \$23,712 (\$47,424 x 50.0%).
- An increase in state expenditures of \$47,424 in FY22-23 and subsequent years.
- There is not estimated to be a significant increase in caseloads; therefore, any impact to the state or local court system is estimated to be not significant.
- The U.S. Supreme Court issued a ruling on February 20, 1905, *Jacobson v. Massachusetts*, upholding the right of states to compel vaccination.
- Each state decides which vaccines are required based on recommendations from the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP).
- Immunization or vaccination for COVID-19 is currently not required by any state or local governmental entity in Tennessee. Prohibiting any such future requirement will not result in a significant fiscal impact to the state or local government.
- The DOH and county health departments can adhere to the provisions of the legislation within existing resources.
- If the proposed legislation prohibits a state or local entity or private business from following any future federal vaccination mandate, federal funding could be jeopardized.
- The AG can review federal laws, orders, rules, or regulations by request of a General Assembly member within existing resources.
- Prohibiting public funding of a state or political subdivision, or employee of the state or political subdivision from implementing a federal law, order, rule, or regulation that is found by the AG to be a discriminatory practice, unconstitutional, or harmful to the economy could result in a jeopardy of federal funds if a state agency, political subdivision, or employee of such agency or subdivision is prohibited from complying with federal guidance.
- Due to multiple unknown factors, the timing and amount of any such jeopardy, or the specific funds that may be jeopardized cannot be determined with reasonable certainty.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

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